



03 MAR 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Richard E.L. Henderson
Patent Department
Bayer CropScience LP
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of
ANDERSCH, et al.
U.S. Application No.: 10/502,527
Filing Date: 26 July 2004
Attorney Docket No.: CS-8286/LeA 35,814
For: SYNERGISTIC INSECTICIDAL MIXTURES

DECISION ON PAPERS

UNDER 37 CFR 1.42

This decision is in response to applicant's "Submission of Missing Parts" filed in the United States Patent and Trademark Office (USPTO) on 17 November 2004. The response is being treated as a request for status under 37 CFR §1.42. No petition fee is due.

BACKGROUND

On 20 January 2003, applicant filed international application PCT/EP03/00478 which claimed priority of an earlier application filed 31 January 2002. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 31 July 2004.

On 26 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application and a First Preliminary Amendment. An executed oath or declaration of the inventor as required by 35 U.S.C. 371 (c)(4) was not filed.

On 17 November 2004, applicant filed the present request accompanied by an executed declaration. Applicant authorized the charging of the \$130.00 surcharge for providing an executed oath or declaration of the inventors later than thirty months from the priority date to Deposit Account No.: 50-2510.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 17 November 2004 is executed by joint inventors Wolfram Andersch and Peter Jeschke. In addition, the declaration is executed by Angelika Lubos-Erdelen as the sole legal heir to estate of deceased joint inventor, Christoph Erdelen. The declaration provides the residence, post office address and country of citizenship for both the deceased inventor and his heir. Applicant has submitted a certified English translation of a deed of inheritance which shows Ms. Erdelen to be the sole heir of her husband's estate.

The submission of the declaration executed by all of the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

As detailed above, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 20 January 2003 and a date of **17 November 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459